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LERNER, DAVID, LITTENBERG, KRUHMOLZ & MENTLIK 600 SOUTH AVENUE WEST WESTFIELD, NJ 07090			MCINTYRE, CHARLES AARON	
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Please find below and/or attached an Office communication concerning this application or proceeding.

The time period for reply, if any, is set in the attached communication.

Office Action Summary	Application No. 10/538,879	Applicant(s) NAKAMURA ET AL.
	Examiner C. Aaron McIntyre	Art Unit 3621

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --
Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If no period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED. (35 U.S.C. § 133).

Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

1) Responsive to communication(s) filed on 23 March 2009.

2a) This action is FINAL. 2b) This action is non-final.

3) Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

4) Claim(s) 1-5,7,8,10 and 30 is/are pending in the application.

4a) Of the above claim(s) none is/are withdrawn from consideration.

5) Claim(s) _____ is/are allowed.

6) Claim(s) 1-5,7,8,10 and 30 is/are rejected.

7) Claim(s) _____ is/are objected to.

8) Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

9) The specification is objected to by the Examiner.

10) The drawing(s) filed on _____ is/are: a) accepted or b) objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).

11) The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

12) Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).

a) All b) Some * c) None of:

1. Certified copies of the priority documents have been received.
2. Certified copies of the priority documents have been received in Application No. _____.
3. Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

1) Notice of References Cited (PTO-892)

2) Notice of Draftsperson's Patent Drawing Review (PTO-948)

3) Information Disclosure Statement(s) (PTO/SB/08)
Paper No(s)/Mail Date _____

4) Interview Summary (PTO-413)
Paper No(s)/Mail Date _____

5) Notice of Informal Patent Application

6) Other: _____

DETAILED ACTION

Acknowledgements

1. This final Office action responds to the amendment and arguments filed by Applicants on 23 March 2009 in reply to the previous Office action on the merits, mailed 25 November 2008.
2. The cancellation of claims 6, 9, and 11-29 by Applicants, in the reply filed on 23 March 2009 is hereby acknowledged.
3. Claims 1-5, 7-8, 10, and 30 are pending in this application and have been examined.

Restriction

4. Applicants' election without traverse of Group I (Claims 1-11) in the reply filed on 23 March 2009 is hereby acknowledged.
5. Newly added claim 30 is now part of Group I.
6. Previously withdrawn claims 12-29 have been canceled by Applicants' in the response filed 23 March 2009.
7. Election was made **without** traverse in the reply filed on 23 March 2009.

Claim Rejections - 35 USC § 103

8. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

9. Claims 1-4, 7, and 30 are rejected under 35 U.S.C. 103(a) as being unpatentable over U.S. Patent No. 7,212,980 to Nakamura et al., hereinafter referred to as Nakamura, in view of U.S. Patent No. 6,542,870 to Matsumoto

10. Regarding **claim 1**, Nakamura discloses an electronic apparatus ([fig. 3]) having one or more functions (“*functions*” [fig. 3]) on which use limitations (“*trial periods*” [fig. 7]) can be imposed (“*if you agree, press [ok]*” fig. 7]), comprising

including:

a processor operable to execute (“*system*” [col. 2, ll. 26-34]) said one or more functions (“*system ... provides the target functions*” [col. 2, ll. 26-34]);
storage (“*storage section*” [fig. 1]) operable to store contents of use limitations (“*1 Month*” or “*40 days*” [fig. 7]; “*period is set by the management program*” [col. 6, ll. 37-54]) for said one or more functions (“*functions*” [col. 2, ll. 26-34]),

the processor being operable to reference a representation of said contents of use limitations (“*1 Month*” or “*40 days*” [fig. 7]; “*In the display of FIG. 7 are shown the trial periods of the respective functions in addition to the functions available for trial*” [col. 6, ll. 37-54]) stored in said storage (“*storage section*” [fig. 1]; “*period is set by the management program*” [col. 6, ll. 37-54]) to determine said contents of use limitations for said one or more functions (“*functions thus selected by the CPU 24 are listed up on display as shown in FIG. 6 ... FIG. 7 are shown the trial periods of the respective functions in addition to the functions available for trial*” [col. 6, ll. 37-54]; [figs. 6-7]), and

being operable to execute said one or more functions only as permitted by said contents of use limitations (“*In the case where the judgment shows that all the functions specified in step S13 are operational, a period capable of trial is set by the management program*” [col. 7, ll. 50-67]; “*Are all the specified functions capable of operation? – S15*” and “*Is there any function [a] available for trial? - S18*” [fig. 10]); and

[a] receiving unit (“*input a function release electronic key*” [fig. 4(a)]) operable to receive use-permitting key information (“*electronic key*” [fig. 4(a)]; “*service center, etc., issues a predetermined electronic key*” [col. 5, ll. 19-33]),

wherein said contents of use limitations are derived (“*user can proceed to the authorized use of a function program by the input of an electronic key which releases the function program from access-protect (function release)*” [col. 5, l. 57 - col. 6, l. 11]) from said use-permitting key information (“*input a function release electronic key*” [fig. 4(a)]; “*service center, etc., issues a predetermined electronic key*” [col. 5, ll. 19-33]).

11. But Nakamura does not explicitly disclose an infrared light receiving unit operable to receive information transmitted by infrared communication.

12. However, Matsumoto teaches an infrared light receiving unit (“*light receiving unit – 21*” and “*infrared-ray I/F driver – 22*” [fig. 3]) operable to receive information (“*information to the light receiving unit 21*” [col. 7, ll. 51-55]) transmitted by infrared communication (“*infrared ray signal*” [col. 7, ll. 51-55]).

13. Therefore, it would have been obvious to one of ordinary skill in the art, at the time of the invention, to have modified the system of Nakamura so as to have included an infrared light receiving unit operable to receive information transmitted by infrared communication, in

accordance with the teaching of Matsumoto, in order to increase convenience and mobility by providing a wireless device capable of performing the use limited functions.

14. Regarding **claim 2**, Nakamura discloses wherein said contents of use limitations represent at least one of a number of days said one or more functions are permitted to be executed (“*40 days*” [fig. 7]), a number of times said one or more functions are permitted to be executed (“*predetermined number of times*” [col. 9, ll. 1-25]), or a time period in which said one or more functions are permitted to be executed (“*predetermined duration of time*” [col. 11, ll. 59-67]).

15. Regarding **claim 3**, Nakamura discloses a storage means operable to record at least one of: the number of days said one or more functions has been executed, or the number of times said one or more functions has been executed (“*number of use according to a use status*” [col. 14, ll. 34-40]) by said processor (“*system*” [col. 2, ll. 26-34]),

wherein said processor is operable to reference said number of days or times of use stored in said storage (“*control section 22 checks whether it is within a trial period*” [col. 8, ll. 64-67 – col. 9, ll. 1-24]; step S43 [fig. 12]) to determine at least one of said number of days or said number of times (“*examining whether or not the number of use of trial reached a predetermined number of times*” [col. 8, ll. 64-67 – col. 9, ll. 1-24]) to control execution of said one or more functions (“*thereby terminating the process*” [col. 8, ll. 64-67 – col. 9, ll. 1-24]).

16. But Nakamura does not explicitly disclose that the second storage means is distinct from the first storage means.

17. However, it is admitted prior art that if two sets of data can be stored in one storage device, the second set of data can alternatively be stored in a second storage device.

18. Therefore, it would have been obvious to one of ordinary skill in the art, at the time of the invention, to have modified the system of Nakamura so as to have included a second storage, in accordance with the admitted prior art, in order to allow data to be manipulated separately without the chance of manipulating the first set of data by providing a separate storage location.

19. Regarding **claim 4**, Nakamura discloses an operating input unit operable to receive operator input representing second (“*Press [Start Trial], or Input a Function Release Electronic Key*” [fig. 4(b)]) use-permitting key information (“*Input a Function Release Electronic Key*” [fig. 8(a)]; [fig. 4(a)-4(b)]) supplied from a source of use permission (“*electronic key thus issued*” [col. 5, ll. 19-33]),

wherein said contents of use limitations are derived (“*user can proceed to the authorized use of a function program by the input of an electronic key which releases the function program from access-protect (function release)*” [col. 5, l. 57 - col. 6, l. 11]) from said second (“*Press [Start Trial], or Input a Function Release Electronic Key*” [fig. 4(b)]) use-permitting key information (“*input a function release electronic key*” [fig. 4(a)]; “*service center, etc., issues a predetermined electronic key*” [col. 5, ll. 19-33]).

20. Regarding **claim 7**, Nakamura discloses wherein said receiving unit (“*input a function release electronic key*” [fig. 4(a)]) is operable to receive use-permitting key information

(“*electronic key*” [fig. 4(a)]) from a source of use permission (“*service center, etc., issues a predetermined electronic key*” [col. 5, ll. 19-33]).

21. But Nakamura does not explicitly disclose information transmitted over a network to an infrared light receiving unit.

22. However, Matsumoto teaches transmitting information over a network (“*information to the light receiving unit 21*” [col. 7, ll. 51-55]) to an infrared light receiving unit (“*light receiving unit – 21*” and “*infrared-ray I/F driver – 22*” [fig. 3]).

23. Therefore, it would have been obvious to one of ordinary skill in the art, at the time of the invention, to have modified the system of Nakamura so as to have included transmitting information over a network to an infrared light receiving unit, in accordance with the teaching of Matsumoto, in order to increase convenience, mobility, and accessibility by using a wireless network to receive the electronic ticket from a centralized location.

24. Regarding **claim 30**, Nakamura discloses a system comprising:

[a] terminal operable to acquire use-permitting key information (“*input a function release electronic key*” [fig. 4(a)]) from a source of use permission (“*service center, etc., issues a predetermined electronic key*” [col. 5, ll. 19-33]); and

an electronic apparatus ([fig. 3]) having one or more functions (“*functions*” [fig. 3]) on which use limitations (“*trial periods*” [fig. 7]) can be imposed (“*if you agree, press [ok]*” [fig. 7]), including:

a processor operable to execute (“*system*” [col. 2, ll. 26-34]) said one or more functions (“*system ... provides the target functions*” [col. 2, ll. 26-34]);

storage (“storage section” [fig. 1]) operable to store contents of use limitations (“1 Month” or “40 days” [fig. 7]; “period is set by the management program” [col. 6, ll. 37-54]) for said one or more functions (“functions” [col. 2, ll. 26-34]),

the processor being operable to reference a representation of said contents of use limitations (“1 Month” or “40 days” [fig. 7]; “In the display of FIG. 7 are shown the trial periods of the respective functions in addition to the functions available for trial” [col. 6, ll. 37-54]) stored in said storage (“storage section” [fig. 1]; “period is set by the management program” [col. 6, ll. 37-54]) to determine said contents of use limitations for said one or more functions (“functions thus selected by the CPU 24 are listed up on display as shown in FIG. 6 ... FIG. 7 are shown the trial periods of the respective functions in addition to the functions available for trial” [col. 6, ll. 37-54]; [figs. 6-7]), and

being operable to execute said one or more functions only as permitted by said contents of use limitations (“In the case where the judgment shows that all the functions specified in step S13 are operational, a period capable of trial is set by the management program” [col. 7, ll. 50-67]; “Are all the specified functions capable of operation? – S15” and “Is there any function [a]vailable for trial? - S18” [fig. 10]); and

[a] receiving unit (“input a function release electronic key” [fig. 4(a)]) operable to receive said use-permitting key information (“electronic key” [fig. 4(a)]; “service center, etc., issues a predetermined electronic key” [col. 5, ll. 19-33]),

wherein said contents of use limitations are derived (“user can proceed to the authorized use of a function program by the input of an electronic key which releases the

function program from access-protect (function release)" [col. 5, l. 57 - col. 6, l. 11]]

from said use-permitting key information ("input a function release electronic key" [fig. 4(a)]; "service center, etc., issues a predetermined electronic key" [col. 5, ll. 19-33]).

25. But Nakamura does not disclose a mobile terminal having a wireless communication function and an infrared ray communication function, and an infrared light receiving unit operable to receive information transmitted by infrared communication from the mobile terminal.

26. However, Matsumoto teaches a mobile terminal ("remote commander - 91" [fig. 3]) having a wireless communication function ("infrared ray signal" [col. 7, ll. 51-55]) and an infrared ray communication function ("infrared ray signal" [col. 7, ll. 51-55]), and an infrared light receiving unit ("light receiving unit - 21" and "infrared-ray I/F driver - 22" [fig. 3]) operable to receive information ("information to the light receiving unit 21" [col. 7, ll. 51-55]) transmitted by infrared communication ("infrared ray signal" [col. 7, ll. 51-55]) from the mobile terminal ("remote commander" [fig. 3]).

27. Therefore, it would have been obvious to one of ordinary skill in the art, at the time of the invention, to have modified the system of Nakamura so as to have included a mobile terminal having a wireless communication function and an infrared ray communication function, and an infrared light receiving unit operable to receive information transmitted by infrared communication from the mobile terminal, in accordance with the teaching of Matsumoto, in order to increase convenience and mobility by providing a wireless device capable of performing the use limited functions.

28. Claims 5, 8, and 10, as best understood by Examiner, are rejected under 35 U.S.C. 103(a) as being unpatentable over Nakamura in view of Matsumoto, in further view of U.S. Patent No. 6,223,166 to Kay.

29. Regarding **claim 5**, Nakamura discloses a scanner ([fig. 1]) operable to read second use-permitting key information (“*Press [Start Trial], or Input a Function Release Electronic Key*” [fig. 4(b)]), wherein said contents of use limitations are derived (“*user can proceed to the authorized use of a function program by the input of an electronic key which releases the function program from access-protect (function release)*” [col. 5, l. 57 - col. 6, l. 11]) from said second (“*Press [Start Trial], or Input a Function Release Electronic Key*” [fig. 4(b)]) use-permitting key information (“*input a function release electronic key*” [fig. 4(a)]; “*service center, etc., issues a predetermined electronic key*” [col. 5, ll. 19-33]).

30. But Nakamura does not explicitly disclose a bar code readout unit operable to read use-permitting key information, printed as a bar code, supplied from a source of use permission.

31. However, Kay teaches a bar code readout unit (“*portable scanner*” [col. 4, ll. 29-41]) operable to read use-permitting key information (“*scan the ticket bar code for authentication*” [col. 4, ll. 29-41]), printed as a bar code (“*bar code*” [col. 4, ll. 29-41]), supplied from a source of use permission (“*Ticket Server*” [fig. 1]).

32. Therefore, it would have been obvious to one of ordinary skill in the art, at the time of the invention, to have modified the system of Nakamura so as to have included a bar code readout unit operable to read use-permitting key information, printed as a bar code, supplied from a source of use permission, in accordance with the teaching of Kay, in order to provide an easily

transportable hard copy ticket containing the use-permitting key information for added convenience.

33. Regarding **claim 8**, Nakamura discloses an electronic apparatus ([fig. 3]) but does not explicitly disclose operable to transmit identifying information for identifying the electronic apparatus and a request for permission for using the electronic apparatus over a network to a server of a source of use permission.

34. However, Kay teaches operable to transmit (“*electronic tickets are transmitted*” [col. 4, ll. 29-41]; [fig. 1]) [event] identifying information (“*selects a ticket for purchase to an event*” [abstract]) for identifying the [event] (“*code is compared against the event description*” [abstract]) and a request for permission for using the [event] (“*ticket is accepted for admission to the event*” [abstract]) over a network (“*electronically linked*” [col. 3, ll. 27-48]) to a server (“*to a web site 18*” [col. 3, ll. 27-48]; [fig. 1]) of a source of use permission (“*for selection and purchase by an operator of the remote user station*” [col. 3, ll. 27-48]).

35. Therefore, it would have been obvious to one of ordinary skill in the art, at the time of the invention, to have modified the system of Nakamura so as to have included operable to transmit identifying information for identifying the electronic apparatus and a request for permission for using the electronic apparatus over a network to a server of a source of use permission, in accordance with the teaching of Kay, in order to provide increased accessibility by using a network to request and receive the electronic ticket from a centralized location.

36. Regarding **claim 10**, Nakamura discloses a storage operable to store the number of days or times said one or more functions has been used (“*number of use according to a use status*” [col. 14, ll. 34-40]) in said function executing unit (“*system*” [col. 2, ll. 26-34]),

wherein said processor (“*control section*” [col. 2, ll. 8-18]) when requested to execute said one or more functions (“*FIG. 12 ... flow of the process ... function of the subprogram P20 is used*” [col. 8, ll. 39-63]) references the contents of use limitations (“*control section 22 checks whether it is within a trial period*” [col. 8, ll. 64-67 – col. 9, ll. 1-24]; *Step S43* [fig. 12]) stored in said storage and said information representing at least one of the number of days or the number of times of use of said one or more functions (“*examining whether or not the number of use of trial reached a predetermined number of times*” [col. 8, ll. 64-67 – col. 9, ll. 1-24]), said information being stored in said storage (“*storage section*” [fig. 1]; “*period is set by the management program*” [col. 6, ll. 37-54]) to control execution of said one or more function (“*thereby terminating the process*” [col. 8, ll. 64-67 – col. 9, ll. 1-24]).

37. But Nakamura does not explicitly disclose that the second storage means is distinct from the first storage means.

38. However, it is admitted prior art that if two sets of data can be stored in one storage device, the second set of data can alternatively be stored in a second storage device.

39. Therefore, it would have been obvious to one of ordinary skill in the art, at the time of the invention, to have modified the system of Nakamura so as to have included a second storage, in accordance with the admitted prior art, in order to allow data to be manipulated separately without the chance of manipulating the first set of data by providing a separate storage location.

40. After careful review of the original specification, the Examiner is unable to locate any lexicographic definitions with the required clarity, deliberateness, and precision.

41. Because the examined claims no longer recite “step for” or “means for”, the examined claims fail Prong (A) as set forth in MPEP §2181. Because all examined claims now fail Prong (A) as set forth in MPEP §2181, the Examiner concludes that all examined claims no longer invoke 35 U.S.C. §112, 6th Paragraph.

Response to Arguments

Applicants' Arguments regarding the amendments:

42. Applicants argue the claim rejections are moot in view of the present amendments.

Examiner's Response:

43. The Examiner respectfully disagrees in part.

44. In particular, although the amendments have greatly clarified the claims thereby making several rejections moot, as can be seen by the detailed rejection above, the original rejection still applies because the Examiner correctly interpreted some of the previous claim language used.

45. Therefore the above detailed rejection which has been corrected to correspond to the amendments incorporates many sections from the previous rejection which the Examiner agrees is now moot in part.

Applicants' Arguments regarding "infrared light receiving unit...":

46. Applicants argue the Nakamura in view of Matsumoto fail to teach the infrared light receiving unit capable of performing the claimed functions.

Examiner's Response:

47. The Examiner respectfully disagrees.

48. In particular, although Applicants have asserted Matsumoto is being used to teach an infrared light receiving unit having all of the capabilities claimed, the Examiner has not relied upon Matsumoto for any of these features. Matsumoto is effectively only being relied upon for the mobile infrared light receiving terminal. Basically, the Examiner is asserting that it would have been obvious to have implemented the system of Nakamura using a mobile infrared light receiving terminal.

49. Therefore because the actual rejection does not correspond to Applicants' arguments, said arguments are moot. The Examiner agrees that no reference alone fully anticipates the claims.

50. In other words, in response to Applicants' arguments against the references individually, one cannot show nonobviousness by attacking references individually where the rejections are based on combinations of references. See *In re Keller*, 642 F.2d 413, 208 USPQ 871 (CCPA 1981); *In re Merck & Co.*, 800 F.2d 1091, 231 USPQ 375 (Fed. Cir. 1986).

51. The above responses apply to the dependent claims by virtue of their dependencies on the independent claims.

52. Applicants' attempt at traversing the Official Notice findings as stated in the previous Office Action (Paper No. 20081110, ¶¶ 40 and 57) is inadequate. Adequate traversal is a two step process. First, applicants must state their traversal on the record. Second and in accordance with 37 C.F.R. §1.111(b) which requires applicants to specifically point out the supposed errors in the Office Action, applicants must state *why* the Official Notice statements are not to be considered common knowledge or well known in the art.

53. In this application, the Applicants have not met step (2) because Applicants have failed to argue *why* the Official Notice statements are not to be considered common knowledge or well known in the art. Because Applicants' traversal is inadequate, the Official Notice statements are taken to be admitted prior art. See MPEP §2144.03.

Conclusion

54. Applicants' amendment filed 23 March 2009 necessitated any new ground(s) of rejection presented in this Office action. Accordingly, **THIS ACTION IS MADE FINAL**. See MPEP § 706.07(a). Applicants are reminded of the extension of time policy as set forth in 37 C.F.R. §1.136(a).

55. A shortened statutory period for reply to this final action is set to expire THREE MONTHS from the mailing date of this action. In the event a first reply is filed within TWO MONTHS of the mailing date of this final action and the advisory action is not mailed until after the end of the THREE-MONTH shortened statutory period, then the shortened statutory period will expire on the date the advisory action is mailed, and any extension fee pursuant to 37 C.F.R. §1.136(a) will be calculated from the mailing date of the advisory action. In no event, however,

will the statutory period for reply expire later than SIX MONTHS from the date of this final action.

56. Any inquiry concerning this communication or earlier communications from the Examiner should be directed to C. Aaron McIntyre whose telephone number is (571) 270-5401. The Examiner can normally be reached on Monday to Thursday 9-6 ET.

57. If attempts to reach the Examiner by telephone are unsuccessful, the Examiner's supervisor, Andrew J. Fischer can be reached on (571) 272-6779. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

58. Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free). If you would like assistance from a USPTO Customer Service Representative or access to the automated information system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.

/C. A. M./
Examiner, Art Unit 3621
June 18, 2009

/Calvin L Hewitt II/
Supervisory Patent Examiner, Art Unit 3685